

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 15

PARTIES: Brotherhood of Maintenance of Way Employees  
TO :  
DISPUTE: CSX Transportation, Inc.

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
that:

Five (5) day overhead suspension assessed to R. D. Eaves,  
ID# 159596, as a result of investigation held August 24,  
1990, at Clinton, South Carolina."

FINDINGS:

Claimant R. D. Eaves was issued a charge letter, via Registered Mail, on May 22, 1990, instructing him to attend an investigation to answer his alleged violation of the following rules:

Rule 2117 of CSX Transportation Engineering Department Maintenance Rules and Practices - "They (track foremen) must see that all work done under their supervision is performed in a quality manner conforming to standard practice and are responsible for seeing that the track upon which their forces have worked is in a safe condition prior to the passage of trains and on the completion of work";

General Rule J - "The track will be protected, by an appropriate temporary speed restriction, during any period that it is not safe for the movement of trains at authorized speed";

and Rule 7.2.2 of the CSX Transportation Track Foreman's Guide to Preventing Track Buckling.

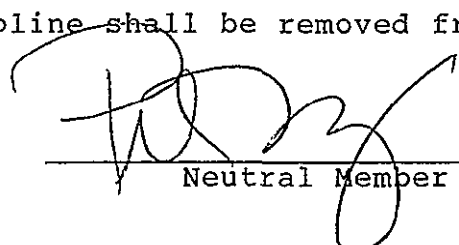
A formal hearing was held on August 24, 1990, and as a result, Claimant was assessed a five day overhead suspension. The Organization thereafter filed a claim on the Claimant's behalf, challenging his suspension.

This Board has reviewed the testimony in the record of this case and we must find that the Carrier has not met its burden of proof of showing that the Claimant violated Carrier rules on the date in question. Although the record reveals that not everything was performed properly on May 17, 1990, there is simply insufficient

evidence of any wrongdoing on the part of the Claimant to support any discipline. Therefore, the claim will be sustained.

Award

Claim sustained. The Claimant shall be made whole for any monies lost and any discipline shall be removed from his record.

  
\_\_\_\_\_  
Neutral Member

\_\_\_\_\_  
Carrier Member

\_\_\_\_\_  
Organization Member

Date: \_\_\_\_\_